

**CON EDISON'S RESPONSES TO EPA'S REQUEST FOR INFORMATION FOR THE  
NEWTOWN CREEK SUPERFUND SITE**

**Section 1.0    Company Information**

**Request No. 1:**

Company Identification: Provide the following information with respect to the Company.

- a.     The full legal, corporate name and mailing address.
- b.     The state and date of incorporation of the Company and the date of qualification to do business in the State of New York.
- c.     The identity of the Chief Executive Officer of the Company.
- d.     If the Company is a successor by merger, acquisition or other activity to any other entity, identify each predecessor and identify the nature of the succession.

**Response:**

- 1.a.     Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10003.
- 1.b.     Consolidated Edison Company of New York, Inc., a wholly owned subsidiary of Consolidated Edison, Inc. ("Con Edison" or the "Company") is a corporation organized and existing under the laws of the State of New York. The Company was incorporated as the Consolidated Gas Company of New York on November 10, 1884, and later changed its name to Consolidated Edison Company of New York, Inc. on March 20, 1936.
- 1.c.     Kevin Burke is the Chairman of the Board and Chief Executive Officer of Con Edison.
- 1.d.     Historical charts summarizing the corporate history of the Company are produced at EPA-NC-CE-0000001- EPA-NC-CE-0000018.

**Request No. 2:**

Future EPA Communications: If the addressee of this letter requests the future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

**Response:**

2. Con Edison requests that all future communications from EPA regarding the Site be sent to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place, 18<sup>th</sup> Floor  
New York, New York 10003  
Attention: Carolyn W. Jaffe, Esq.,  
Assistant General Counsel  
[Jaffec@coned.com](mailto:Jaffec@coned.com)  
(212) 460-2178

## **Section 2.0 Company Facilities:**

### **Section 2.1 Ash at McGuinness Facility and 11<sup>th</sup> Street Conduit Facility**

#### **Request No. 3:**

Ash at McGuinness Facility. Please identify with respect to the Ash at McGuinness Facility (see Definition 9.a):

- a. Nature of the Company's interest in the Ash at McGuinness Facility and date it acquired such interest (e.g., owner fee title, leasehold, etc.).
- b. Street address of the Ash at McGuinness Facility.
- c. Describe buildings and improvements at the Ash at McGuinness Facility and dates put into service by the Company.
- d. Identify the function of the Ash at McGuinness Facility in the Company's electric generation, transmission and distribution business. Please describe infrastructure at the facility and the role played by such infrastructure in the Company's business operations.
- e. Relationship of the Ash at McGuinness Facility to the 11<sup>th</sup> Street Conduit Facility (see Definition 9.b).
- f. Provide a copy of all instruments evidencing the acquisition of the Company's interest (e.g., deeds, leases, licenses, etc.).

#### **Response:**

The facility referred to in the Information Request as the Ash at McGuinness Facility (the "Brooklyn headhouse") is located in Brooklyn, New York. The land on which this facility is located was purchased by Con Edison in 1963.

The headhouse serves as the Brooklyn-side terminus and access point for a tunnel described in detail in response to Request No. 4. Construction of the Brooklyn headhouse and the related tunnel occurred between October 1963 and the summer of 1965. Operations began in 1965.

The Brooklyn headhouse is the location of an approximately 150 feet deep shaft (the "Brooklyn headhouse shaft") that connects the surface to the southern end of the tunnel. At the base of the headhouse shaft is a sump pit where tunnel infiltrate collects before being pumped up the shaft for discharge. The tunnel is constructed so that the tunnel slopes downward from Queens towards the Brooklyn headhouse. This enables all liquids that enter into the tunnel to drain, via troughs at the base of the tunnel walls, into the sump pit at the base of the Brooklyn headhouse shaft. Groundwater from outside of the tunnel lining that collects in a drain beneath the tunnel floor also drains into the Brooklyn headhouse sump pit. Groundwater and stormwater that collects in the sump pit is then pumped to the surface through piping in the Brooklyn

headhouse. Located directly north of the headhouse building are twin Mercer International ("Mercer") oil/water separators ("OWSs"), described in more detail in response to Request 6, below, the effluent from which feeds into a single AFL Industries ("AFL") OWS.

**Request No. 4:**

11<sup>th</sup> Street Conduit Facility. Please respond with respect to the 11<sup>th</sup> Street Conduit Facility (see Definition 9.b):

- a. Provide a description of the 11<sup>th</sup> Street Conduit Facility.
- b. Please identify on a map of the Newtown Creek area (e.g., Google map print or equivalent) of one inch equals 500 feet (or more detailed), the location and extent of the 11<sup>th</sup> Street Conduit Facility.
- c. Please provide a copy of any plan or drawing in the Company's possession which shows the vertical and horizontal extent of the portion of the 11<sup>th</sup> Street Conduit Facility within Newtown Creek.
- d. Identify the Company's interest in the real property in or on which the 11<sup>th</sup> Street Conduit Facility is located (e.g., owner of fee title, lessee, licensee, statutory or regulatory approval to locate the facility at real property owned by another person) as to the portion crossing Newtown Creek and each other segment of the conduit within 1,000 feet of Newtown Creek.
- e. Identify the date that the 11<sup>th</sup> Street Conduit Facility was constructed, installed and put into service.
- f. Identify the construction material for the conduit and the nature of seepage into the conduit from surrounding groundwater or from Newtown Creek waters, and the releases by seepage out from the conduit into the surrounding environment.
- g. Describe the function of the 11<sup>th</sup> Street Conduit Facility and its function in the Company's electric generation, transmission and distribution business.
- h. Provide a cross section drawing of the 11<sup>th</sup> Street Conduit depicting the tunnel, cables, and associated infrastructure and a drawing showing the location of the conduit within Newtown Creek and in or on the uplands within 1,000 feet of Newtown Creek.
- i. Identify the function of the oil filled cables in the 11<sup>th</sup> Street Conduit Facility, identify the type of oil used in the conduit, PCBs used in the conduit and the purpose for such materials within the conduit.
- j. Identify other contaminants present in the 11<sup>th</sup> Street Conduit Facility, the nature of their introduction and the method of their release.
- k. Identify cathodic protection of the conduit, dates of installation and provide copies of reports on cathodic effects.
- l. Provide a copy of Company literature describing the construction, function and maintenance of the 11<sup>th</sup> Street Conduit Facility.

**Response:**

The facility referred to in the Information Requests as the "11<sup>th</sup> Street Conduit Facility" is a subterranean tunnel used by Con Edison to house and provide access to electrical transmission lines (and oil return lines associated with those transmission lines) that link Con Edison facilities in Brooklyn and Queens (the "Conduit Facility"). The Conduit Facility allows these utility lines to be located beneath Newtown Creek and a number of railroad and subway tunnels. Lying approximately 100 feet beneath the bed of Newtown Creek, the tunnel depth ranges from approximately 150 feet below grade (at the Brooklyn end) to approximately 140 feet below grade (at the Queens end). The tunnel is accessible through two headhouses owned by Con Edison, one in Brooklyn and one in Queens. The Queens headhouse is located outside of the Newtown Creek area covered by this Information Request (the "Newtown Creek subject area").

Con Edison operates the Conduit Facility within the Newtown Creek subject area pursuant to the following legal interests:

1. The southernmost section of the tunnel (i.e., that portion under the Brooklyn headhouse) is on land owned by Con Edison.
2. North of the Brooklyn headhouse, the tunnel runs under Newtown Creek. Con Edison was permitted to develop and operate the tunnel under Newtown Creek pursuant to an Indenture granted by New York State.
3. North of Newtown Creek, the tunnel extends north in Queens until it leaves the Newtown Creek subject area and terminates at the Queens headhouse property. Con Edison developed and operates the tunnel beneath Queens' streets pursuant to easements and franchise rights that were provided to Con Edison and its predecessors to promote and ensure the supply of electricity to its customers.

Con Edison obtained a permit from the United States Army Corps of Engineers to construct the tunnel below Newtown Creek in 1963.

Lying more than 100 feet below the bed of Newtown Creek, the concrete walls of the Conduit Facility are subject to infiltration from surrounding groundwater. The composition of the tunnel infiltrate is described in response to Requests 6.d and 6.e. The tunnel infiltrate that collects in the troughs and the collection drain beneath the tunnel floor drain downhill into the sump pit at the bottom of the Brooklyn headhouse shaft. Once collected in the sump, the tunnel infiltrate is pumped to the surface for handling and disposal. The Company's SPDES permit application for the tunnel provides that the estimated average flow of tunnel water discharge is approximately 85,000 gallons per day ("gpd"). This number was determined in accordance with the permit application protocol and does not necessarily reflect the actual average gpd of tunnel water pumped out of the sump pit. The amount varies in part because the liquid collected in the sump pit may include stormwater runoff from both the Brooklyn and Queens headhouses. As a result, while there is little fluctuation in the rate of flow from groundwater seepage into the tunnel, the average daily rate of effluent from the tunnel may vary due to the amount of rainfall.

We have found no documentation or other information suggesting that there is seepage out from the Conduit Facility into the environment. Neither the Brooklyn headhouse nor the Conduit Facility has ever been served by its own sanitary or storm sewer.

The Conduit Facility was built to provide Con Edison with a means to house and access electrical transmission cables and their associated oil return lines beneath Newtown Creek, and facilitate the linkage of Brooklyn and Queens to the Company's power grid. Since the beginning of operations, the tunnel has housed electrical power lines contained within three separate oil-filled 10-3/4" diameter pipes. There are also four oil return pipes within the tunnel used for heat exchange (i.e., cooling and insulation) purposes: three active 5-9/16" diameter pipes and one retired 5" steel pipe. A cross-section diagram of the Conduit Facility is produced at EPA-NC-CE-0004667.

The cables located in the Conduit Facility are oil-filled electrical transmission cables and associated heat-exchange return lines. Dielectric fluid that does not contain PCBs is used in these pipes to cool and insulate the electrical cables. The oil is pumped through the cables from a facility located outside of the Newtown Creek subject area.

Information on spills and releases from the Conduit Facility is provided in response to Requests 9 and 19.

**Request No. 5:**

Photographs, maps, drawings, surveys, Sanborn maps. Provide photographs, maps, drawings, surveys, and Sanborn maps showing current as well as previous locations and configurations of the following with respect to the Ash at McGuinness Facility and the 11<sup>th</sup> Street Conduit Facility:

- a. Historic Photographs of each facility.
- b. Current and previous configuration of buildings, improvements and infrastructure.
- c. Current and previous configurations of sanitary and storm sewers.
- d. Current and previous configurations of solid waste management units.
- e. Current and previous configurations of below-ground infrastructure.
- f. Current and previous configurations of above-ground structures and infrastructure.
- g. Current and previous configurations of direct discharge facilities including pipes, ditches and other conveyance features.

**Response:**

Historic photographs of the Brooklyn headhouse and the Conduit Facility for the following periods are produced at:

- **1963 – 1964:** EPA-NC-CE-0004694; EPA-NC-CE-0004697 - EPA-NC-CE-0004703; EPA-NC-CE-0004705 - EPA-NC-CE-0004707; EPA-NC-CE-0004712 - EPA-NC-CE-0004748; EPA-NC-CE-0004753 - EPA-NC-CE-0004765; EPA-NC-CE-0004767 - EPA-NC-CE-0004814; EPA-NC-CE-0004817 - EPA-NC-CE-0004820; EPA-NC-CE-0004823 - EPA-NC-CE-0004853; EPA-NC-CE-0004862 - EPA-NC-CE-0004867; EPA-NC-CE-0004869 - EPA-NC-CE-0004891; EPA-NC-CE-0004893; EPA-NC-CE-0004895; EPA-NC-CE-0004902; EPA-NC-CE-0004907; EPA-NC-CE-0004910 - EPA-NC-CE-0004922; EPA-NC-CE-0004934; EPA-NC-CE-0004976; EPA-NC-CE-0004977.
- **1969 – 1971:** EPA-NC-CE-0005026 - EPA-NC-CE-0005056; EPA-NC-CE-0005060; EPA-NC-CE-0005087; EPA-NC-CE-0005090; EPA-NC-CE-00045095 - EPA-NC-CE-0005098.
- **1974:** EPA-NC-CE-0005100 - EPA-NC-CE-0005105; EPA-NC-CE-0005107 - EPA-NC-CE-0005125.
- **2012:** EPA-NC-CE-0005129; EPA-NC-CE-0005130; EPA-NC-CE-0005133; EPA-NC-CE-0005134; EPA-NC-CE-0005141 - EPA-NC-CE-0005175.



**Request No. 6:**

Oil/Water Separators. Identity all oil/water separators operating in connection with the Ash at McGuinness Facility, the 11<sup>th</sup> Street Conduit Facility and all Other Newtown Creek Facilities. For each oil/water separator, please identity as follows:

- a. Location of each oil/water separator, dates of construction and installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge.
- b. Provide a copy of each permit and permit application for each oil/water separator.
- c. Attach a drawing showing the water flow through the facility, the sources of intake water, operations contributing waste water to the effluent, and treatment units.
- d. Provide a copy of all influent sampling results relating to oil/water separator.
- e. Provide a copy of all effluent sampling results for discharge to Newtown Creek before installation of the oil/water separator.
- f. Provide a copy of discharge monitoring reports after installation of oil/water separator.
- g. Provide copies of submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.
- h. Provide a copy of Company manuals relating to operation of oil water separators.

**Response:**

6.a The only OWSs operated by Con Edison within the Newtown Creek subject area are the AFL OWS and the Mercer OWSs located on the Brooklyn headhouse property. As described in response to Requests 3 and 4, above, groundwater that infiltrates into the Conduit Facility, as well as stormwater that enters the tunnel, all flow via gravity toward the Brooklyn end. There, the water is directed into a sump pit located at the bottom of the Brooklyn headhouse shaft where it is then conveyed via pumps to the surface and into the OWSs installed at grade. The effluent from these OWSs is discharged into Newtown Creek pursuant to SPDES Permit NY0201138.

In 1994, Con Edison installed an AFL OWS just north of the Brooklyn headhouse building. The AFL OWS removes hydrocarbons and settleable solids from wastewater. It is capable of accepting an oily water inflow of up to 400 gpm. The AFL OWS has a holding capacity of 2,840 gallons and an oil storage capacity of 650 gallons.

In 2007, as part of an upgrade to the OWS system serving the Conduit Facility and the Brooklyn headhouse, two Mercer OWSs were installed. The effluents from each Mercer OWS feed into the AFL OWS for further treatment. Each unit is capable of accepting oily water

inflow of up to 200 gpm. Each unit is intended to remove waste oil and convey it via collector tubes to a separate 250-gallon double-walled oil recovery tank.

6.b. SPDES Permit NY0201138, which has an effective term of March 1, 2012, to February 28, 2017, is produced at EPA-NC-CE-0000078- EPA-NC-CE-0000080. Con Edison first applied for this SPDES permit on March 28, 1994. See application produced at EPA-NC-CE-0000081- EPA-NC-CE-0000096. The initial permit became effective on March 1, 1996. The SPDES permit was modified or renewed as follows:

- Modified on January 9, 1997, for the effective term of March 1, 1997, through March 1, 2002 (EPA-NC-CE-0000097- EPA-NC-CE-0000107);
- Renewed on September 6, 2001, for the effective term of March 1, 2002, through March 1, 2007 (EPA-NC-CE-0000108- EPA-NC-CE-0000119);
- Renewed on September 19, 2006, for the effective term of March 1, 2007, through February 29, 2012 (EPA-NC-CE-0001120- EPA-NC-CE-0000121); and
- Renewed on October 28, 2011, for the effective term of March 1, 2012, through February 28, 2017 (EPA-NC-CE-0000078- EPA-NC-CE-0000080).

6.c. Water flow through the Conduit Facility is shown on the diagram produced at EPA-NC-CE-0000122.

6.d. Con Edison does not regularly perform sampling on the influent to the OWSs and we have located no influent sampling data.

6.e. The initial SPDES permit application (EPA-NC-CE-0000081- EPA-NC-CE-0000096) contains effluent sampling results taken before installation of the AFL OWS in 1994.

6.f. Copies of all discharge monitoring reports associated with New York State SPDES Permit NY0201138 are produced at EPA-NC-CE-0000123- EPA-NC-CE-0000380.

6.g. Copies of the following submissions to federal, state, city or county environmental agencies or public health agencies relating to the OWSs have been located are produced:

- Application for Emergency Discharge Authorization, dated April 7, 1995 (EPA-NC-CE-0000381- EPA-NC-CE-0000383);
- Letter to NYSDEC related to a September 10, 2006 discharge pipe breach, dated October 3, 2006 (EPA-NC-CE-0000384- EPA-NC-CE-0000385);
- Letter to NYSDEC responding to findings of a NYSDEC SPDES inspection, dated April 7, 2010 (EPA-NC-CE-0000386- EPA-NC-CE-0000388);
- Best Management Practices Plan, dated 1997 (EPA-NC-CE-0000389- EPA-NC-CE-0000405);
- Best Management Practices Plan, dated 2009 (EPA-NC-CE-0000406- EPA-NC-CE-0000423);

- Best Management Practices Plan, dated 2011 (EPA-NC-CE-0000424- EPA-NC-CE-0000440);
- Report of Non-compliance related to a September 1999 exceedance of the SPDES permit oil and grease limit and the discovery of oil droplets in the 11<sup>th</sup> Street Conduit (EPA-NC-CE-0000441);
- Report of Non-compliance related to a November 2006 exceedance of the SPDES permit oil and grease limit (EPA-NC-CE-0000442); and
- Report of Non-compliance related to a February 2009 discharge of oily water to bluestone from the wastewater discharge line before its connection to the OWS (EPA-NC-CE-0000443).

See also response to Request 10.

6.h. Copies of Company manuals relating to operation of the OWSs are produced at EPA-NC-CE-0000444- EPA-NC-CE-0000588.

**Request No. 7:**

Environmental Data and Reports. Provide a copy of all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Ash at McGuinness Facility. Provide copies of all documents containing such data and information, and analysis or interpretation of such data.

**Response:**

7. Other than those referenced in response to Request 24, Con Edison has not located and is not aware of any environmental investigations or environmental reports related to the soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Brooklyn headhouse.

**Request No. 8:**

Solid Waste Management Units. Identify all past and present solid waste management units or areas where materials are or were in the past managed, treated, or disposed (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, drainage ditches, tanks, drums, container storage areas, etc.) on the Ash at McGuinness Facility.

**Response:**

8. There are six solid waste management units on the Brooklyn headhouse property where materials are, or were in the past, managed or treated. Five of the six areas are at ground level. The sixth area, the sump pit, is located at the bottom of the Brooklyn headhouse shaft. A description of these six areas is provided below:

1. OWS Area – This is the area immediately north of the Brooklyn headhouse where the Mercer OWSs (and the associated storage tank) and the AFL OWS are currently installed.
2. Construction & Demolition (“C&D”) Debris Storage Areas – A 20-yard roll-off container has been staged in various locations on the Brooklyn headhouse property during facility construction work. Only non-hazardous C&D debris has been stored in these containers. No such containers are currently on site.
3. Satellite Accumulation Area – Limited quantities of hazardous waste may be stored temporarily in this area while being generated. No such accumulation area is currently utilized on the property.
4. Non-Hazardous Waste Storage Area – In this area, 55-gallon drums of non-hazardous oily liquid waste (which is generated during periodic OWS maintenance and cleanout work) are stored in “clam shell” secondary containment enclosures.
5. Port-O-San – A portable toilet is currently located on the property.
6. Sump Pit – This is the area at the bottom of the Brooklyn headhouse shaft where water infiltrating the tunnel collects prior to being pumped to the surface and into the OWSs.

**Request No. 9:**

Outfalls, Pipes Drains, Sheet flow, Etc. Identify each outfall or discharge point, including, if applicable, sheet-flow, from any Company facility that now or formerly discharges or discharged directly or indirectly to Newtown Creek from the Ash at McGuinness Facility, the 11<sup>th</sup> Street Conduit Facility and all Other Newtown Creek Properties to Newtown Creek. Please identify:

- a. The location and type of each discharge.
- b. The source of effluent.
- c. The volume (gallons per day) of the discharge.
- d. The characteristic of the influent and effluent.
- e. Permits associated with such discharge.

**Response:**

9.a. The only Con Edison facility that discharges into Newtown Creek is the Brooklyn headhouse. As described in the response to Request 6, all of the infiltrate from the Conduit Facility collects in the sump pit at the base of the Brooklyn headhouse shaft and is directed to the OWSs. The treated effluent from the OWSs is discharged directly into Newtown Creek pursuant to SPDES Permit NY0201138, which is produced at EPA-NC-CE-0000078- EPA-NC-CE-0000080. A diagram of the water flow through the Brooklyn headhouse after the installation of the OWS system in 1994 is produced at EPA-NC-CE-0000122.

Prior to the installation of the AFL OWS in 1994, Con Edison set the sump pump intake low enough in the sump pit to be below any sheen, leaving the oily waste to accumulate on the top of the water in the sump pit. Between the beginning of operations of the Brooklyn headhouse and the Conduit Facility in 1965 and 1973, the tunnel water that was pumped to the surface from the tunnel sump pit was discharged to Newtown Creek via an 8" cast iron pipe connecting the headhouse to a New York City outfall pipe located in Oakland Street pursuant to permission granted in June 1964 by the New York City Department of Public Works. See permission documents produced at EPA-NC-CE-0000589- EPA-NC-CE-0000592. The Brooklyn headhouse's connection to this New York City outfall pipe was cut and capped in 1973.

From 1973 through 1994, when the AFL OWS was installed, Con Edison discharged water that collected in the tunnel to Newtown Creek through two, 6" cast iron pipes. These two pipes were located outside of the Brooklyn headhouse. The pipes were permitted to breach the Newtown Creek bulkhead pursuant to a work permit granted by the New York City Department of Ports and Terminals on May 17, 1973 and issued on September 25, 1973. That permit was extended periodically. See one bulkhead permit extension produced at EPA-NC-CE-0000593- EPA-NC-CE-0000599. See also engineering drawing indicating removal of connection to New York City outfall and replacement with 2 6" direct outfall pipes produced at EPA-NC-CE-

0000600. In 1994, when the AFL OWS was installed, the cast iron pipes were replaced with an overland 10" polyethylene pipe that transverses the headhouse property.

9.b. Information regarding the source of effluent is provided in response to Request 9.a.

9.c. The volume (gallons per day) of the discharge is discussed in response to Request 4.f.

9.d. The characteristics of the influent and effluent are provided in responses to Requests 6.d, 6.e and 6.f.

9.e. Permit information is provided in response to Request 9.a.

**Request No. 10:**

Facility drainage studies: Provide copies of any storm water or drainage studies for the Ash at McGuinness Facility, including data from sampling, conducted for that facility on storm water, sheet flow, or surface water runoff.

**Response:**

10. Copies of the following documents are produced:

- Water Vulnerability Analysis Design Basis Report for the 11<sup>th</sup> Street Conduit, prepared by TRC Engineers, dated December 21, 2010 (EPA-NC-CE-0000601- EPA-NC-CE-0000617;
- 11<sup>th</sup> Street Conduit Tunnel System Description Tunnel Dewatering and Drainage System/Oil Water Separators, prepared by TRC, dated July 18, 2001 (EPA-NC-CE-0000618- EPA-NC-CE-0000657; and
- Discharge Outfall Survey and Monitoring Locations Evaluation, prepared by Foster Wheeler, dated 1998 (EPA-NC-CE-0000658- EPA-NC-CE-0000674.

No sampling has been conducted on stormwater, sheet flow or surface water runoff from the Brooklyn headhouse. Because the headhouse is covered in bluestone gravel, nearly all stormwater infiltrates into the ground, creating little to no sheet flow or surface water runoff.



**Request No. 11:**

Connections to New York City sewer system:

- a. State whether the Ash at McGuinness Facility is connected to the New York City sewer and the date that the facility was first connected.
- b. State whether the facility has ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges.
- c. State whether the facility participates in the New York City pretreatment program, whether the Company has ever been classified as a significant industrial user, and whether the Company has ever been in violation of sewer use requirements or permits or received any notices of violation relating to use of the New York City sewer system.
- d. Provide information detailing the volume of liquids discharged to the sewers and the nature of the discharges including analytical data detailing the markup of the discharged liquids.
- e. Provide copies of all permits and permit applications for New York City Industrial Wastewater discharge permits.
- f. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Company's user of the New York City sewer system.
- g. Copies of any Baseline Monitoring Reports submitted to New York City in connection with the Company's application for an industrial wastewater discharge permit.
- h. Copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes.
- i. Copies of all periodic monitoring reports for wastes discharged through the sewer system.

**Response:**

11.a. The Brooklyn headhouse is not currently and has never been connected to the New York City sanitary sewer system. As described in response to Request 9.a, between 1965 and 1973 the tunnel water pumped to the surface at the headhouse was discharged to Newtown Creek pursuant to permission to use the indicated outfall pipe granted by New York City.

11.b. Information regarding discharges of liquid wastes is provided in response to Requests 3.c and 6.a, and response to Request 9.a.

11.c. Not applicable.

11.d. Not applicable.

11.e. Not applicable.

11.f. Not applicable.

11.g. Not applicable.

11.h. Copies of surveys, reports or analyses delineating or characterizing Con Edison's liquid wastes are provided in response to Requests 6.d, 6.e and 6.f.

11.i. Not applicable.

**Request No. 12:**

Describe the receipt, storage and use by the Company of chemicals including, specifically but separately, polychlorinated biphenyls ("PCBs") and metals at the Ash at McGuinness Facility and at the 11<sup>th</sup> Street Conduit Facility.

- a. For chemicals other than PCBs: Identify chemicals, including if applicable, creosote, oil and grease, benzene, toluene, ethylbenzene and xylenes, present at or acquired for use at the facility including the identification of each such chemical and the purpose for which it was acquired. Describe all processes for which each such chemical was used at the facility. Identify all spills, emissions, discharges and releases of any such chemical.
- b. For PCBs: identify any PCBs previously or currently used or otherwise present at the facility, including, but not limited to, PCBs in capacitors, transformers, vacuum pumps, hydraulic systems, and other electric power supply infrastructure; and (ii) PCBs in raw materials, wastes, wastewater, scrap, and byproducts. Identify the purpose for PCB use and identify all spills, emissions, discharges and releases of any PCBs at or from the facilities. Please provide MSDSs for PCB materials used at the facility.
- c. For metals and metal compounds (including but not limited to raw materials, scrap, byproducts, ash, wastewater and wastes containing metals or metal compounds but not including metals as components of structures or equipment): Identify any metals and metal compounds previously or currently used or otherwise present at the facility, and the purpose for each of them. Identify all spills, emissions, discharges and releases of any such substances at or from the facility since the time that your Company owned or operated the facility.

**Response:**

12.a. Except for the petroleum products found within the feeder cables (described in response to Request 4.i), fuel stored on-site to supply the emergency generator (described in response to Requests 3.c, 3.d and 3.e), fire extinguishant that is fully contained within on-site fire extinguishers, and lead-acid batteries kept on site for backup power, Con Edison does not routinely receive, store or use any liquid chemicals at the Brooklyn headhouse or the Conduit Facility. MSDSs for the dielectric fluid, fuel oil, fire extinguishant and battery acid used in the headhouse and/or the tunnel are produced at EPA-NC-CE-0000675- EPA-NC-CE-0000699. See response 19.A for a description of spills of dielectric fluid at the headhouse or the tunnel.

12.b. PCBs are not used in Company operations at the Brooklyn headhouse or the Conduit Facility. As described in response to Request 4.i, PCBs have been detected in some paint chips at the headhouse and the tunnel from paint that was applied in years past to steel pipe and other structural steel components. We have located no documents or other information indicating releases of PCBs at or from the Facilities.

12.c. Metals and metal compounds are not used in Company operations at either facility. Lead, cadmium and chromium have been detected in some paint chips at the Brooklyn headhouse and the Conduit Facility from paint that was applied in years past to steel pipe and other structural steel components.

**Request No. 13:**

Waste Disposal. For all periods of the Company's ownership or operation of the Ash at McGuinness Facility, describe how wastes transported from the facility for disposal or treatment were handled, stored, and/or treated prior to transport to the disposal facility.

**Response:**

13. See response to Request 8 for a description of the solid waste management units at the Brooklyn headhouse. Prior to shipment for proper off-site treatment or disposal, wastes are handled, stored and treated as follows:

1. OWS Cleanout Waste – See response 14.1 for a description of the handling of OWS cleanout waste prior to offsite disposal.
2. Sump Cleanout Waste – See response 14.2 for a description of the handling of sump cleanout waste prior to offsite disposal.
3. C&D Debris – All C&D debris generated at the Brooklyn headhouse is placed into a 20-yard roll-off container and stored on site until the container is full or the construction work is complete. Each roll-off container is then picked up by a contractor and transported offsite to a third-party C&D landfill for disposal.
4. Hazardous Solid Waste – All hazardous waste generated at the Brooklyn headhouse is immediately containerized by placing the waste in labeled 55-gallon steel drums in specially designated satellite accumulation areas. Once the drums are full, or the work complete, the drums are picked up by either, Con Edison's Corporate Transportation group (a permitted transporter), or by a contract transporter, and transported offsite to an approved third-party facility for final treatment or disposal.
5. Non-Hazardous Liquid Waste – Non-hazardous oily wastewater generated during OWS maintenance, between the bi-monthly cleanings, is immediately containerized in 55-gallon steel drums by Con Edison personnel. These drums are then labeled and stored inside "clam shell" secondary containment units. Once full, these drums are picked up by either: (1) Con Edison's Corporate Transportation group (a permitted transporter) and transported offsite for treatment or disposal at either the Company's Astoria Wastewater Treatment Plant or an approved third-party facility; or (2) a contract transporter for treatment and disposal at an approved third-party facility.
6. Port-O-San – All septic waste generated in the onsite Port-O-San remains fully contained inside of the unit until it is vacuumed into a tanker truck by a contractor and transported offsite to a third-party facility for final treatment or disposal.

**Request No. 14:**

Equipment Cleaning and Maintenance. Describe the cleaning and maintenance of the equipment and machinery involved at the Ash at McGuinness Facility and the 11<sup>th</sup> Street Conduit Facility, including but not limited to:

- a. Materials used to clean/maintain this equipment/machinery.
- b. Monthly or annual quantity of each such material used.
- c. Disposal of used cleaning materials.
- d. Provide copies of Company manuals or procedures relating to cleaning of equipment and machinery.

**Response:**

14.a, 14.b and 14.c.

The following is a description of cleaning and maintenance activities on equipment and machinery located at the Brooklyn headhouse and the Conduit Facility.

1. Oil Water Separators -- The Mercer OWSs and AFL OWS are cleaned on a bi-monthly basis by an environmental contractor working under the supervision and oversight of Con Edison's Tunnel Maintenance Section and an environmental consultant, with assistance from Con Edison's Gas Environmental Health & Safety ("EH&S") group. From 1994 through 2007 (when the Mercer OWSs were installed), the OWS system was generally inspected and cleaned on a monthly basis. The environmental contractor performs the cleaning using a water-only high-pressure hot-wash process. All liquids generated during the cleaning process are contained and vacuumed into a vendor tank truck for disposal at a third-party facility. Each cleaning of the Mercer OWSs and AFL OWS generates approximately 8,000 gallons of non-hazardous oily wastewater. The OWSs are inspected and serviced on a bi-monthly basis by an independent contractor. After each cleaning, the environmental consultant prepares a status report on the condition of the equipment. A copy of Section 601 of the Company's Tunnel Maintenance Handbook, pertaining to OWS cleaning and maintenance activities is produced at EPA-NC-CE-0000700- EPA-NC-CE-0000708.
2. Sump -- The sump at the bottom of the Brooklyn headhouse shaft is cleaned on a quarterly basis by an environmental contractor working under the supervision and oversight of Con Edison's Tunnel Maintenance Section and an environmental consultant with assistance from Con Edison's Gas EH&S group. The environmental contractor performs the cleaning using a water-only high-pressure hot-wash process. All liquids generated during this cleaning process are contained and vacuumed into a vendor tank truck for disposal at a third-party wastewater recycling facility. Each cleaning of the sump generates approximately 4,000 gallons of non-hazardous oily

wastewater. After each cleaning, the environmental consultant prepares a status report on the condition of the equipment. A copy of Section 601 of the Company's Tunnel Maintenance Handbook, pertaining to sump pit cleaning and maintenance activities is produced at EPA-NC-CE-0000700- EPA-NC-CE-0000708.

3. Troughs -- The tunnel troughs are cleaned on an as-needed basis by Con Edison's Tunnel Maintenance Section. During these cleanings, accumulations of sludge are shoveled into bags which are then drummed for transportation and disposal at an approved third-party disposal facility. During the most-recent trough cleaning, performed in 2010, approximately 20 yards of non-hazardous oily solid waste was generated.
4. Feeder Pipe Coating Inspection Program -- As part of its inspection program, Con Edison's Tunnel Maintenance Section inspects the coatings on electric transmission feeder pipes in the Conduit Facility and the Brooklyn headhouse shaft on a three-year cycle. As part of this program, contractors examine the transmission feeders, and, if there are areas where the wax tape is noticeably deteriorated, the wax tape is scraped off by hand to reveal the condition of the underlying pipe. The underlying pipe is then cleaned with Envirosolv 655. All of the waste is bagged, drummed and transported to an approved third-party hazardous waste disposal facility as lead and PCB hazardous solid waste. This waste stream may include lead and/or PCB-containing paint chips (from the paint that was applied historically to the steel feeder pipes) which are scraped off during the inspection and repair process. The feeder pipe coating and structural steel inspection programs at the Brooklyn headhouse and Conduit Facility generate approximately 28 pounds of hazardous waste per month.
5. Steel Support Structure Repainting -- Con Edison's Tunnel Maintenance Section requires that certain steel support structures be repainted on an as-needed basis. As part of this process, the Tunnel Maintenance Section brings in a contractor to remove the old paint using manual wet scraping methods. All of the waste is bagged, drummed and transported to an approved third-party hazardous waste disposal facility as lead and PCB hazardous solid waste. Sampling of this waste also sometimes indicates the presence of cadmium and/or chromium in the paint chips. In these situations, the waste is manifested accordingly based on the sampling results. The waste generated in this process is included in the approximately 28 pounds of hazardous waste generated per month discussed above for the Feeder Pipe Coating Inspection Program.
6. Weekly Inspections - Once each week, a team from Con Edison's Tunnel Maintenance Section walks the entire length of the Conduit Facility inspecting the tunnel and the equipment contained therein.

14.d. A copy of Section 601 of the Company's Tunnel Maintenance Handbook, pertaining to tunnel cleaning and maintenance activities is produced at EPA-NC-CE-0000700- EPA-NC-CE-0000708.

**Request No. 15:**

Storage and Combustion of Coal. Did the Company store or combust coal at the Ash at McGuinness Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the facility:

- a. Identify the purposes for such coal storage or combustion, including if used in energy production and the processes in which the energy was used at the facility.
- b. Identify the volume of coal received at the facility, the type or types of coal (i.e., bituminous, anthracite, etc.) received and consumed on an annual basis during the period of the Company's ownership or operations, including changes over time.
- c. Describe the means of storage of coal at the facility, and whether such storage was indoors or outdoors and covered or uncovered. Identify on a facility map or diagram the location of the coal storage facilities.

**Response:**

15. No.



## **Section 2.2 Other Newtown Creek Facilities**

### **Request No. 16:**

Other Newtown Creek Facilities. Please identify with respect to all Other Newtown Creek Facilities (see Definition 9.c) the following:

- a. Provide an itemized list of all Other Newtown Creek Facilities with a description of each such facility including a schematic drawing, the address or location of each such facility, the Company's interest in each facility (e.g., fee owner, easement owner, owner of personal property on land owned by another and subject to lease, license or permit from the owner or statutory right), the operations conducted at or by such facility and the dates of the Company's operations.
- b. Identify whether hazardous substances (see Definition 3) or petroleum or manufactured or natural gas have been or are present at each facility with a description of such material and their purpose at such facilities.
- c. Identify any environmental or operating permits from governmental authorities with respect to such facilities and provide copies of all such permits.
- d. Identify all spills, leaks or releases from any such facility and the Company's response to same.
- e. Identify all outfalls to Newtown Creek from each Other Newtown Creek Facility.

### **Response:**

In response to Request 16, Con Edison has made a good faith search of its records for documents and information regarding real property, structures and crossings within the Newtown Creek subject area.

16.a, 16.b, 16.c.

Con Edison currently owns no parcels of land in fee in the Newtown Creek subject area other than the Brooklyn headhouse.

Between 1942 and 1946 Con Edison owned a parcel of land, less than 1/3-acre in area, located approximately 850' south of Grand Avenue in Queens, west of a proposed extension of 49<sup>th</sup> Street, and designated as Block 2611 Lot 620 on the Queens County Tax Map. Copies of the deed evidencing Con Edison's purchase of the parcel, its sale four years later and a survey of the lot in question are produced at EPA-NC-CE-0000709- EPA-NC-CE-0000716. Con Edison never conducted operations on the Grand Avenue parcel, which remained unimproved during the Company's ownership. No documents and or other information responsive to subparts b - e of this Request with respect to the Grand Avenue parcel have been located.

Con Edison currently is neither a tenant nor licensee of any parcels of land in the Newtown Creek subject area, and we have located no documents or other information regarding prior leases of, or licenses to use, property in the Newtown Creek subject area.

In addition to the Brooklyn headhouse and the Conduit Facility, Con Edison owns, operates and/or maintains the following other facilities in the Newtown Creek subject area:

1. Utility Structures. In addition to electric distribution and transmission lines, Con Edison owns, operates and/or maintains electric lines, vaults (i.e., underground structures that contain at least one Con Edison electrical transformer), manholes (i.e., underground structures, most of which contain electrical transmission and distribution wires and other Con Edison equipment, but do not contain electrical transformers), service boxes (i.e., underground structures that contain electrical distribution cables and service connections). Information relating to spills or releases to the environment that have or may have occurred from these utility structures within the Newtown Creek Subject area is provided in response to Request No. 19.
2. Queens Gas Main. Con Edison owns, operates and maintains a 24-inch, steel-walled, natural gas main in the Newtown Creek subject area in Queens. Con Edison has no information indicating that its operation of this natural gas main has resulted in a spill or release to the environment within the Newtown Creek subject area.
3. Submarine Electrical Cable Crossing. Con Edison owns, operates and maintains electrical cables that lay in a trench across Newtown Creek. Con Edison has no information indicating that its operation of these subterranean electrical cables has resulted in a release or spill to the environment within the Newtown Creek subject area.
4. Fuel Line Crossing Between Vernon Boulevard (Queens) and Manhattan Avenue (Brooklyn). Con Edison owns a 20-inch fuel oil line (the "Number 7 Line") that is housed in a trench that is approximately 260 feet long, and stretches roughly from the Manhattan Avenue intersection of the Newtown Creek bulkhead in Brooklyn to the Vernon Boulevard intersection of the Newtown Creek bulkhead in Queens. Before Con Edison stopped operating the Number 7 Line in 1999, it was used for the transfer of fuel oil from the Company's former North First Street Terminal in Brooklyn to the Company's former Ravenswood Generating Station in Queens.

Con Edison did not build the Number 7 Line, and has no copies of permits relating to its construction (which is believed to have occurred in the 1960s). Con Edison first began operating the Number 7 Line in the 1980s. A diagram of the Number 7 Line is produced at EPA-NC-CE-0005199. Con Edison operated the Number 7 Line pursuant to a Revocable Consent Agreement between the Company and the City of New York. A copy of the most-recent Revocable Consent Agreement is produced at EPA-NC-CE-0000725- EPA-NC-CE-0000746. This Revocable Consent Agreement is in the process of being renewed. See letter produced at EPA-NC-CE-0000747- EPA-NC-CE-0000763.

Other than small quantities of residual fuel oil in the now defunct fuel line, there are no hazardous substances including without limitation, manufactured or natural gas, or petroleum products within this pipe line. There are no environmental or operating permits currently in place for the Number 7 Line.

The Number 7 Line was taken out of service following a 1997 Consent Order between Con Edison and the New York State Department of Environmental Conservation ("NYSDEC"). A copy of the Consent Order is produced at EPA-NC-CE-0000764- EPA-NC-CE-0000817. The Consent Order was entered into as part of a Company-wide effort to upgrade the Company's fuel oil pipeline system. Con Edison is currently planning to complete the decommissioning of the Number 7 Line by the end of 2013.

16.d. Con Edison has conducted a good faith search of its records for information on spills or releases to the environment from the Grand Avenue parcel, and from structures and crossings within the Newtown Creek subject area. No documents or other information indicating any releases to the environment from the Grand Avenue parcel, the Queens gas main, or from the Submarine Electrical Cable Crossing were found. Information on releases to the environment from certain structures and from the Number 7 Line are set forth in response to Request 19.

16.e. There are no outfalls to Newtown Creek from Other Newtown Creek Facilities.

### **Section 2.3 Ownership or Operation of Newtown Creek**

#### **Request No. 17:**

Ownership of Newtown Creek: At the present time or at any past time, has the Company or any affiliate:

- a. Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?
- b. Asserted control or exclusive rights to use any portion of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging, filling, construction, maintenance or repair of any facility located in the waters, the associated wetlands or sediments, including, by way of example, tunnels or conduits, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or over-water facilities?
- c. If the answer to either subparagraph "a" or "b" of this paragraph is yes, please identify the areas owned or controlled, or over which the Company has a right to use, provide an explanation of how and from whom the Company acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, and described all activities conducted pursuant thereto.
- d. Please include the 11<sup>th</sup> Street Conduit Facility and Other Newtown Creek Facilities in your response to this question.

#### **Response:**

17.a. We have found no documents or information indicating that Con Edison has ever owned any portion of Newtown Creek or any wetlands associated with Newtown Creek.

17.b. Pursuant to appropriate authorization, the Company has installed and operates Crossing 45 (as described in response to Request 16.a) and is in the process of decommissioning the Number 7 Line (as described in response to Request 16.a and response to Request 19). Both Crossing 45 and the Number 7 Line are located in the sediment at the bottom of Newtown Creek.

17.c. Not applicable.

17.d. The Brooklyn headhouse is located more than 100 feet below the bed of Newtown Creek. Con Edison acquired no ownership or control interests in Newtown Creek as a result of its construction or operation of the Conduit Facility.

**Request No. 18:**

Operations In Newtown Creek:

- a. Identify all current and previous Company outfalls or discharge points into Newtown Creek, including location, gallon per day, source of influent and associated permits.
- b. Describe all activities that have been conducted by the Company over, on, under, or adjacent to Newtown Creek. Include in your description the location of the activity, whether the activity involved hazardous substances, industrial waste, petroleum or other waste materials and whether any materials were ever discharged, spilled, disposed or, dropped, or otherwise came to be located in Newtown Creek.
- c. Has the Company, or any affiliate, at any time constructed, operated or utilized any facility under the waters or sediments of Newtown Creek, including without limitation the 11<sup>th</sup> Street Conduit Facility or other tunnels or conduits, or pipes, pipelines, or other underwater or under sediment facilities?
- d. Please provide details for subparagraphs a, b and c, including:
  - i. the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek or re-suspension of sediments associated with construction or maintenance of such facilities, and all permits associated with the construction or operation; and
  - ii. the source of the Company's authorization to construct or maintain such facilities in Newtown Creek including identification of the operating document (deed, lease, easement, license, permit, etc.) and the identity of the grantor, and provide copies of the relevant deeds, leases, licenses and permits.
- e. State whether any of the operations required to be identified above resulted in disposal or spillage of any materials into Newtown Creek or the re-suspension of any sediments of Newtown Creek.
- f. If the answer is a "yes" please provide details and any available documentation of such events.

**Response:**

18.a. See response to Request 9.a.

18.b. See responses to Requests 3 and 4 relating to the Brooklyn headhouse and the Conduit Facility and the response to Request 16.a for Con Edison activities at other Facilities within the Newtown Creek subject area. Information on releases to the environment within the Newtown Creek subject area is provided in response to Request 19.

18.c. In addition to the Conduit Facility, Con Edison has operated the crossings described in response to Request 16.a.

18.d. Information responsive to this request relating to the Conduit Facility is provided in response to Request 4, and information relating to the other crossings is provided in response to Request 16 a.

18.e and 18.f. See the responses to Requests 9.a and 19, and response to Request 16.a.

### Section 3.0 Facility Releases, Investigations and Remediation

#### Request No. 19:

Releases at Company Facilities. Has the Company ever produced notice to or made a report to any EPA or any New York State or New York City agency concerning a spill or release involving the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility or any Other Newtown Creek Facility? If so, describe each spill or release and provide copies of all communications between the Company and federal, state or local regulatory agency. Please indicate on a diagram of any such facility the location of the spill and its proximity to Newtown Creek. Without limitation please address the circumstances surrounding a 1999 spill involving 31 drums or creosote at the 11<sup>th</sup> Street Conduit facility or the Ash at McGuinness Facility.

#### Response:

19. Con Edison has conducted a good faith search for documents and other information relating to spills or releases to the environment that have or may have occurred at or from Con Edison facilities within the Newtown Creek subject area. In response to Request 19, Con Edison is providing the following information and documents with respect to the Brooklyn headhouse, the Conduit Facility and other Con Edison facilities within the Newtown Creek subject area, including structures and crossings:

##### A. Brooklyn Headhouse and Conduit Facility

1. Con Edison Incident Report 128225 (October 4, 1999): Based on SPDES sampling that indicated an oil and grease exceedance of the SPDES permit limit, Con Edison conducted an inspection of the Conduit Facility and found that oil had infiltrated the tunnel. RCM Technologies was retained to perform sampling of the oily debris. Results of the sampling showed constituents common to creosote and other degraded petroleum products. On October 5, 1999, Miller Environmental cleaned out the oily debris from the OWS and the sump. This cleanout generated thirty-one drums of creosote-like waste that was disposed of at a third-party disposal facility. The thirty-one drums do not represent waste released at or from the Brooklyn headhouse or the Conduit Facility. Copies of Con Edison Incident Report 128225, the EPA Provisional ID/Incident Report, and the 1999 sampling report are produced at EPA-NC-CE-0000818- EPA-NC-CE-0000832.
2. Con Edison Spill Incident Log (August 16, 1971): In response to a loss of oil from one of the 345 kV feeders that runs through the Conduit Facility, Con Edison performed a cleanup of the tunnel on August 25, 1971, and shipped the

waste to an offsite disposal facility. A copy of the 1971 spill incident log is produced at EPA-NC-CE-0000833- EPA-NC-CE-0000841.

3. Con Edison Incident Report 126392 (July 2, 1988): A leak on July 2, 1988, involved a release of approximately 10,000 gallons of dielectric fluid from Feeder 62 within the Conduit Facility. The spill is listed as NYSDEC Spill No. 8810168. Con Edison detected the leak by observing a drop in pressure at its Rainey and Farragut Substations. The leak was located at the point where the feeder passes through the Brooklyn headhouse shaft wall. The release occurred on the shaft side of the wall. In response to the incident, a substantial excavation was conducted to perform the repair and assess any impacts to the subsurface. No soil impacts were noted during the repair work. In July 2008, Con Edison requested that NYSDEC close out the spill. NYSDEC determined that there was insufficient documentation for closure at that time and requested that Con Edison prepare a site investigation work plan. Con Edison is in the process of preparing the requested work plan for submission to NYSDEC. A copy of Con Edison Incident Report 126392, Con Edison's request for closure dated July 29, 2008, and NYSDEC's response to the request are produced at EPA-NC-CE-0000842- EPA-NC-CE-0000845.
4. Feeder 63 Report (October 5, 1989): Con Edison detected a feeder leak of one gallon of dielectric fluid from Feeder 63 within the Conduit Facility. The leak was observed at the point where the feeder sleeve passes through the wall of the Brooklyn headhouse shaft, and all dielectric fluid was contained in the sleeve within the concrete wall. This release, referred to as Spill 79-8, is being investigated under NYSDEC oversight along with other Feeder 63 spills, which are outside the Newtown Creek subject area. A copy of the October 5, 1989 spill report, the October 2005 Site Investigation Work Plan and the 2009 Supplemental Site Investigation Work Plan are produced at EPA-NC-CE-0000846- EPA-NC-CE-0001581.<sup>1</sup>
5. Con Edison Incident Report 147288 (February 25, 2003): Con Edison detected a feeder leak of 45 gallons of dielectric fluid from Feeder 61 within the Conduit Facility. The spill is currently listed on the NYSDEC Spills Database as Spill Number 0211699. The leak was observed at the point where the feeder sleeve passes through the wall of the Brooklyn headhouse shaft. Dielectric fluid was observed only on concrete within the shaft of the Brooklyn headhouse. The area outside of the shaft wall was excavated to repair the feeder and assess any impacts to soil. No soil impacts were noted during the repair work. A copy of Con Edison Incident Report 147288, Con Edison's request for closure dated July 29,

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<sup>1</sup> Please note that while the documents produced in connection with this discussion refer to a number of spills other than Spill 79-8, those other spills occurred outside of the Newtown Creek subject area and, accordingly, are not responsive to this Request.



2008, and NYSDEC's response to the request are produced at EPA-NC-CE-0001582- EPA-NC-CE-0001595.

6. Con Edison Incident Report 202392 (September 11, 2006): A break in the discharge piping leading to the AFL OWS resulted in approximately 300 gallons of tunnel water being released to bluestone at the Brooklyn headhouse and on the neighboring Department of Transportation yard. Con Edison cleaned up the spill. A copy of Con Edison Incident Report 202392 report is produced at EPA-NC-CE-0001596- EPA-NC-CE-0001603.
7. Con Edison Incident Report 203476 (November 22, 2006): SPDES sampling indicated an oil and grease exceedance of the SPDES permit limit. No cleanup was required. A copy of Con Edison Incident Report 203476 report is produced at EPA-NC-CE-0001604- EPA-NC-CE-0001606.

Because each of the spills described above occurred at the Brooklyn headhouse or the Conduit Facility, the locations of which are provided in detail elsewhere in this Response, no separate diagram is included.

#### B. Other Con Edison Facilities Within the Newtown Creek Subject Area

##### 1. Structures

Con Edison is producing the following information and documents in connection with Con Edison structures within the Newtown Creek subject area:

- Con Edison Incident Report 205635 (May 2, 2007): In connection with the replacement of Pole j15540 near the corner of Maspeth Avenue and Vandervoort Avenue in Brooklyn, approximately one pint of oil was found on 10 gallons of water in the dirt. A copy of Incident report 205635 is produced at EPA-NC-CE-0001607- EPA-NC-CE-0001612.
- Con Edison Incident Report 211595 (May 29, 2008): Approximately 40 gallons of dielectric fluid was released when a transformer fell off Pole 93880, located near the corner of 48<sup>th</sup> Street and Maspeth Avenue in Queens. A copy of Incident Report 211595 is produced at EPA-NC-CE-0001613- EPA-NC-CE-0001618.
- Con Edison Incident Report 216663 (May 1, 2009): Approximately 10 gallons of oil of unknown origin was found on approximately 200 gallons of water in Vault 1630, located in front of 46-25 Metropolitan Avenue in Queens. Con Edison pumped approximately 5 gallons of this water into the street, which drained into a nearby sewer, before it was determined that the liquid was contaminated with oil and the pumping was stopped. A copy of Incident Report 216663 is produced at EPA-NC-CE-0001619- EPA-NC-CE-0001625.

The location of each of the above referenced spill incidents is provided on maps produced at EPA-NC-CE-0001626- EPA-NC-CE-0001627.

## 2. Con Edison Crossings Within the Newtown Creek Subject Area

Con Edison is producing information and documents in connection with five spills associated with the Number 7 Line within the Newtown Creek subject area. The spills are covered by a 1994 Consent Order between Con Edison and NYSDEC (DEC Index No. R2-1023-88-06) (the "1994 Consent Order") under which Con Edison agreed to investigate and/or remediate historic dielectric fluid and petroleum spills at about 85 sites (the "Appendix B Program"). A December 2006 consent order modified and continued the Appendix B Program. Copies of the 1994 Consent Order and the 2006 Consolidated Consent Order are produced at EPA-NC-CE-0001628- EPA-NC-CE-0001817.

Site 26 includes five spills in the Newtown Creek subject area. These spills are identified as Spills 26-1 through 26-5. All of these spills consist of releases of No. 6 Fuel Oil from the Number 7 Line. In the area of Site 26, the pipeline is situated between 8 and 12 feet below ground surface.

### a. 54-08 Vernon Boulevard

Spills 26-1 through 26-4 cover four releases of No. 6 fuel oil associated with valve pit No. 6 on the Number 7 Line. The releases were discovered entering a sump in the bathroom of a building located at 54-08 Vernon Boulevard (the "Doris Building") on the following dates:

- Spill 26-1: 1,000 gallons on May 19, 1989 (Con Edison Incident Report 126292)
- Spill 26-2: 900 gallons on May 26, 1989 (Con Edison Incident Report 126293)
- Spill 26-3: 1,000 gallons on July 17, 1989 (Con Edison Incident Report 126294)
- Spill 26-4: Greater than one gallon on June 17, 1991 (Con Edison Incident Report 126296)

Con Edison Incident Reports relating to Spills 26-1 through 26-4 are produced at EPA-NC-CE-0001818- EPA-NC-CE-0001825. No NYSDEC spill numbers were assigned to Spills 26-1 or 26-2. NYSDEC Spill Number 8903862 was assigned to Spill 26-3 and NYSDEC Spill Number 9103109 was assigned to Spill 26-4. In February 2012, NYSDEC administratively closed Spill No. 8903862 and combined it with Spill No. 9103109.

In 1989, the No. 6 fuel oil was pumped out of the sump and valve pit inside the Doris Building by AAA Pollution Control Company. This work was done under the supervision of NYSDEC and the New York City Fire Department ("FDNY"). In 1991, the equipment in valve pit No. 6 was relocated to the street immediately north of the Doris Building on 54<sup>th</sup> Avenue. The excavation to expose the pipeline extended from immediately adjacent to the Doris Building (in the sidewalk) to a few feet into the road on 54<sup>th</sup> Avenue. AAA Pollution Control Company deployed absorbent booms to remove a sheen on Newtown Creek. A patch of contaminated soil and debris on the south side of the Doris Building was removed at that time. Documents relating to these spills are produced at EPA-NC-CE-0001826- EPA-NC-CE-0001831. A map showing the location of Site 26 Spills 26-1 through 26-4 at 54-08 Vernon Boulevard in Queens is produced at EPA-NC-CE-0001832.

b. 51<sup>st</sup> Avenue and 5<sup>th</sup> Street

Spill 26-5 was reported as a 4,700 gallon release of No. 6 fuel oil at the intersection of 51<sup>st</sup> Avenue and 5<sup>th</sup> Street in Queens. It was discovered on December 31, 1988. The spill is identified as NYSDEC Spill Number 8807932. In 2008, a site investigation of Spill 26-5 was conducted to determine if soils in the vicinity of the Number 7 Line formerly at the intersection of 51<sup>st</sup> Avenue and 5<sup>th</sup> Street were impacted by the release. NYSDEC noted that the areas investigated in 2008 were not located near the likely source of the release, valve pit No. 5, in the northwest corner of the intersection of 51<sup>st</sup> Avenue and 5<sup>th</sup> Street. NYSDEC has recommended that an additional investigation be conducted near valve pit No. 5 to address this release. A Map showing the location of Spill 26-5 at 51<sup>st</sup> Avenue and 5<sup>th</sup> Street in Queens is produced at EPA-NC-CE-0001833.

Documents relating generally to the Site 26 investigations are produced at EPA-NC-CE-0001834- EPA-NC-CE-0003947.<sup>2</sup>

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<sup>2</sup> Please note that while the documents produced in connection with this discussion refer to a number of spills other than Spills 26-1 through 26-5, those other spills occurred outside of the Newtown Creek subject area and, accordingly, are not responsive to this Request.

**Request No. 20:**

Soil Removal Action. Has any contaminated soil ever been excavated or removed from the Ash at McGuinness Facility, the 11<sup>th</sup> Street Conduit Facility, or any Other Newtown Creek Facility? If yes, identify the reason for such soil removal action, the dates of such action, the identity of and location at the facility, and whether the soil removal was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the soil excavation and all data and analyses and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

**Response:**

20. There has been no removal of contaminated soil from the Brooklyn headhouse or the Conduit Facility. As discussed in response 19.B.2.a, soil was removed from 54-08 Vernon Boulevard in July 1989 due to the release of Number 6 fuel oil in the basement of the Doris Building.

**Request No. 21:**

Groundwater Action. Has the Company treated, pumped, or taken any kind of response action on groundwater under the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility or any other Newtown Creek Facility? If yes, identify the reason for such groundwater action, the dates of such action, the identity of and location of the facility, and whether the groundwater action was performed under the oversight of an EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

**Response:**

21. No.

**Request No. 22:**

Releases into Subsurface Units. Was there ever a spill, leak, release or discharge of waste, or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building at the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility or any Other Newtown Creek Facility? If yes, provide details of each event and any communication with any federal, state or city regulatory body.

**Response:**

22. See responses 19.A.2, 19.A.3 and 19.A.4.

**Request No. 23:**

Releases to Newtown Creek. In addition to activities addressed by questions 18 and 19 above, was there ever a spill, leak, release or discharge of a hazardous substance, pollutant, contaminant, industrial waste, petroleum or other waste, or material into Newtown Creek from the Ash at McGuinness Facility, the 11<sup>th</sup> Street Conduit Facility or any Other Newtown Creek Facility? If yes, identify such release and provide copies of any documents regarding the nature of the material released, the dates of each such occurrence, the amount and location for such release, and whether there was any action to treat or recover any materials that were the subject of the release. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

**Response:**

23. No.

**Request No. 24:**

Environmental Investigations at Company Facilities. Identify all investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility or any Other Newtown Creek Facility. Provide copies of all data, reports, and other documents that were generated by the Company or any contractor or consultant, or by a federal or state regulatory agency related to the investigations that are described and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

**Response:**

24. A copy of a report entitled Environmental Forensic Report of Sump Sludge, prepared by META Environmental, dated May 24, 2007, is produced at EPA-NC-CE-0003948- EPA-NC-CE-0003988. See also responses and documents produced in response to Requests 6.e, 10 and 19.



**Request No. 25:**

Phase I, Phase II and Other Environmental Investigations. Please provide copies of all environmental investigation reports in the Company's possession relating to the Ash at McGuinness Facility or associated with the 11<sup>th</sup> Street Conduit Facility or any Other Newtown Creek Facility, whether performed by or on behalf of the Company or any other person whether undertaken at the times of acquisition and transfers of the facility or at any other time.

**Response:**

25. See documents produced in response to Requests 6.e, 10 and 19.

## Section 4.0 Regulatory Information

### Request No. 26:

Regulatory Agencies with Jurisdiction Over Facilities. Identify each federal, state and local authority that regulates environmental concerns relating to the ownership or operation at the Ash at McGuinness Facility and the 11<sup>th</sup> Street Conduit Facility. Please identify the contact point at such agency, the activity regulated and the applicable federal, state and local statute or regulation from which such regulatory authority was derived.

### Response:

26. The following federal, state and local authorities have authority over environmental issues relating to the ownership and operation at the Brooklyn headhouse and the Conduit Facility:

Agency	Regulated Activity	Regulatory Authority	Point of Contact
EPA	Spill reporting	CERCLA CWA	Office of Solid Waste and Emergency Response
EPA	Solid and hazardous waste management	RCRA	Division of Enforcement and Compliance Assistance
USCG	Spill reporting	CWA	Sector New York
NYSDEC	Spill reporting and cleanup	NY Navigation Law Article 12	Division of Environmental Remediation
NYSDEC	SPDES permits	NY Environmental Conservation Law Article 17	Regional Water Engineer
NYSDEC	Solid and hazardous waste management	NY Environmental Conservation Law Article 27	Division of Environmental Remediation

NYCDEP	Spill reporting	New York City Administrative Code  Title 24, Chapter 7	Bureau of Police and Security -Division of Emergency Response and Technical Assessment
NYCDEP	Community Right To Know	New York City Administrative Code  Title 24, Chapter 6	Bureau of Police and Security - Division of Emergency Response and Technical Assessment -
NYCDEP	Internal Combustion Fuel Burning Equipment Operation	New York City Administrative Code  Title 24, Chapter 1	Bureau of Environmental Compliance - Division of Air & Noise Policy
FDNY	Fuel storage	New York City Administrative Code Title 29	Bureau of Fire Operations

**Request No. 27:**

Notices of Violation. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Ash at McGuinness Facility and the 11<sup>th</sup> Street Conduit Facility related to environmental matters. Provide copies of all documents associated with each occurrence described.

**Response:**

27. See notice of violation from the New York City Environmental Control Board relating to a May 10, 1977 excess emission of an air contaminant (smoke) from the emergency generator at the Conduit Facility, produced at EPA-NC-CE-0003989- EPA-NC-CE-0003992. See also documents produced in response to Requests 6.g and 19.

**Request No. 28:**

Environmental Permits. Provide a list of all local, state, and federal environmental permits which have been applied for or issued to the Company with respect to the Ash at McGuinness Facility, the 11<sup>th</sup> Street Conduit Facility and each Other Newtown Creek Property for any media.

- a. For State Pollutant Discharge Elimination System and National Pollutant Discharge Elimination System permits, provide a copy of each such permit and identify the date the permit was first issued and all renewals.
- b. For such SPDES or NPDES permits, provide a copy of all discharge monitoring reports and all notices of violation.
- c. For each other permit, identify the permit, the media, the activity permitted, the agency issuing the permit, the date first issued and all renewal permits.
- d. For each other permit identified in subparagraph c., above, identify all notices of violation and provide a copy of each notice of violation.

**Response:**

28.a. See response to Request 6.b regarding the SPDES permit issued with respect to the discharge from the OWSs at the Brooklyn headhouse.

28.b. Copies of all discharge monitoring reports associated with SPDES Permit NY0201138 are produced at EPA-NC-CE-0000123- EPA-NC-CE-0000380.

28.c. Con Edison has an Internal Combustion Fuel Burning Equipment registration from NYCDEP for the operation of the emergency diesel generator (EPA-NC-CE-0003993). The registration was first issued in 1995 and has been renewed every three years since issuance. The current registration expires on October 5, 2013. Con Edison also has a permit for the storage of fuel associated with the emergency diesel generator from FDNY (EPA-NC-CE-0003994). The permit was first issued in either 1995 or 1996 and has been renewed annually since issuance. The current permit is in the process of being renewed and remains valid until FDNY issues a new permit.

28.d. None.

**Request No. 29:**

Regulated Waste Activity. Was a Notification of Regulated Waste Activity ever filed with EPA or New York State for any activity at the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility during the period that the Company owned or operated at the facility? If so, provide a copy of such notification and the response given by EPA or New York State including the RCRA identification number assigned.

**Response:**

29. On November 12, 1999, Con Edison filed a Notification of Regulated Waste Activity related to the disposal of creosote waste generated during a spill clean-up performed at the Conduit Facility, as discussed in response 19.A.1. EPA approved this Notification of Regulated Waste Activity, and RCRA EPA Identification number NYR000078469 was assigned. A copy of the Notification of Regulated Waste Activity and the Waste Profile Sheet is produced at EPA-NC-CE-0003995- EPA-NC-CE-0003999.

**Request No. 30:**

Interim Status. Did the Company or any affiliate ever have “interim status” under RCRA at the Ash at McGuinness Facility or the 11<sup>th</sup> Street Conduit Facility? If so, and the Facility does not currently have interim status, describe the circumstances under which interim status was terminated.

**Response:**

30. No.

## **Section 5.0 Civil Litigation, Administrative Enforcement and Criminal Matters**

### **Request No. 31:**

#### Civil Litigation, Administrative Enforcement and Criminal Matters

- a. Has the Company been a party to any litigation or involved in any other claim where an allegation by or against the Company included environmental contamination of Newtown Creek or contamination of any facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transportation, or arrangement for disposal relationship to the facility or some other basis)? If yes, identify such litigation or claim, briefly describe the allegation by or against the Company, the status of the litigation or claim, and provide a copy of the pleadings and any settlement agreement or court order.
- b. Has the Company been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from any facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transportation, or arrangement for disposal relationship to the facility or some other basis)? If yes, state the Company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.
- c. Has the Company or an employee, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at any facility located within 1,000 feet of Newtown Creek? If so, describe the disposition of such accusation and provide details on such accusation.

#### **Response:**

31.a. In 1997, Con Edison and 16 other defendants were sued in the United States District Court for the Eastern District of New York by DMJ Associates ("DMJ") in an action entitled, *DMJ Associates, L.L.C. v Capasso* (E.D.N.Y. Index No. CV97-7285). The action sought to compel the cleanup of contamination at the Capasso property located in Long Island City, New York. The complaint alleged that Con Edison had sent waste to Quanta Resources, a waste treatment and disposal facility (the "Quanta Facility"), and that contamination, including PCB contamination, had migrated from the Quanta Facility onto Capasso's property. From the inception of the case, Con Edison maintained that it had not sent waste to the Quanta Facility and that it had no responsibility for the contamination. Based on the Company's responses to plaintiff's voluminous discovery requests, in February 2003, the plaintiff agreed to dismiss Con Edison without prejudice. Newtown Creek lies approximately 450 feet southeast of the Capasso property. At the time of Con Edison's dismissal, the estimated cost of the clean-up was in excess of \$20 million. A copy of the final order for dismissal is produced at EPA-NC-CE-0004000.



31.b. Con Edison has not been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from any facility located within 1,000 feet of Newtown Creek.

31.c. After a good faith search, Con Edison has located no documents or information indicating that Con Edison or any Con Edison employee, contractor or agent has ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at any Con Edison facility located within 1,000 feet of Newtown Creek.

## Section 6.0 Compliance with this Request and Financial Information

### Request No. 32:

Persons and Source Materials Consulted in Your Response: Identify all persons, other than counsel, that the Company consulted, and all such materials that the company reviewed in responding to this request, including, but not limited to, the names of persons consulted, the contact information for such person, and if the person is a current or former employee, the job title and responsibilities for such person and the dates of employment, and identify which questions the person was consulted about.

### Response:

32. Please refer to the following table of current and former Con Edison employees who may be contacted through Con Edison's Law Department at 4 Irving Place, New York, New York 10003 – Attention: Carolyn Jaffe, Assistant General Counsel, (212) 460-2178.

Name	Title	Request Nos.
Marisa Joss	Legal Counsel	1 & 34
Carolyn Jaffe	Assistant General Counsel	2
Jeffrey W. Earle	Section Manager, Real Estate	3, 4, 16 & 18
Joseph P. Kenny	Project Specialist, Legal Services	3, 4, 5, 9, 11, 16 & 18
Leonard J. Burshtein	Section Manager, Survey	3, 4, 16 & 18
Warren S. Miller	Project Specialist, Gas Engineering EHS	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30
Andrew J. Fiore	Project Specialist, Gas Engineering EHS	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30
Mark Bauer	Project Manager, Transmission Operations	3, 16, & 18
Lima A. Jones	Section Manager, Gas Engineering EHS	4, 6, 7, 8, 10, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30
Peter N. Carnevale, Jr.	Sr. Engineer, Gas Engineering	4 & 14

Name	Title	Request Nos.
Barry H. Cohen	Section Manager, EHS Remediation Programs	7, 19, 20, 21, 22, 23, 24 & 25
Richard Knob	Sr. Scientist, EHS Water & Natural Resources	6, 10, 27 & 28
Michael J. Trofinoff	Sr. Specialist, Steam Ops EHS	6, 27 & 28
Brian A. DeShong	Section Manager, EHS Programs	6 & 27
Vito A. Mariani	Engineer, EHS Remediation Programs	7, 19, 20, 21, 22, 23, 24 & 25
Matthew T. Madsen	Sr. Scientist, EHS Remediation Programs	7, 16, 19, 20, 21, 22, 23, 24 & 25
David Davidowitz	Vice President, Gas Engineering (retired)	9, 11 & 18
Thomas P. Teeling	Sr. Scientist, EHS Asbestos & Waste	13, 27, 28, 29 & 30
Anthony Mancino	General Manager, GAS OPS Bronx GM	16 & 18
Thomas A. Healy	Section Manager, EHS Environmental Response Team	19, 21, 22, 23 & 24
Margaretha L. Lukshides	Scientist, EHS Environmental Response Team	19, 21, 22, 23 & 24
Patrick S. Hanley	Sr. Scientist, EHS Environmental Response Team	19, 21, 22, 23 & 24
Thomas F. Tropea	Technical Specialist, EHS Fire Prevention	27 & 28
Anthony M. Guastafeste	Section Manager, EHS Air	27 & 28
Caroline M. Browne	Scientist, EHS Asbestos & Waste	27, 28, 29 & 30
Antonio H. Arnaud	Engineer, EHS Air	28
Eric Dessen	Assistant General Counsel	31
N/A	N/A	32 & 33
Peter Barrett	Associate General Counsel	34
Joseph Lynch	Department Manager, Risk Management	35a
Carolyn Jaffe	Assistant General Counsel	35b & 35c

**Request No. 33:****Persons Having Responsibility for Environmental Matters at Company Facilities.**

Identify all individuals who currently have and those who have had responsibility for the Company's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of the Company's wastes) for Company facilities located within 1,000 feet of Newtown Creek. Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning environmental matters.

**Response:**

33. Please refer to the following table of current or former employees with primary responsibility for environmental matters at Con Edison Facilities within the Newtown Creek subject area. The nature of the information they provided is provided in response to Request 32. The individuals may be contacted through Con Edison's Law Department at 4 Irving Place, New York, New York 10003 – Attention: Carolyn Jaffe, Assistant General Counsel, (212) 460-2178.

Name	Title
Barry H. Cohen	Section Manager, EHS Remediation Programs
Lima A. Jones	Section Manager, Gas Engineering EHS
Richard Knob	Sr. Scientist, EHS Water & Natural Resources
Brian A. DeShong	Section Manager, EHS Programs
Thomas P. Teeling	Sr. Scientist, EHS Asbestos & Waste
Thomas A. Healy	Section Manager, EHS Environmental Response Team
Anthony M. Guastafeste	Section Manager, EHS Air
Thomas F. Tropea	Technical Specialist, EHS Fire Prevention
Joseph Panarelli	Sr. Scientist, Emissions Control (retired)
Harry Coates	Section Manager, Environmental Affairs and EHS (retired)

**Request No. 34:**

Financial Information: Provide a copy of the Company's certified annual financial statements for each of the most recent three years.

**Response:**

34. Copies of the Company's certified annual financial statements for each of the most recent three years are produced at EPA-NC-CE-0004001- EPA-NC-CE-0004649.

**Request No. 35:**

Insurance and Indemnification:

- a. Provide a schedule of liability insurance policies that may provide coverage to the Company for environmental liabilities associated with Newtown Creek.
- b. Identify each entity that may have a duty to indemnify the Company for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to so indemnify the Company.
- c. Identify each entity that the Company has agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Company.

Response:

35.a. No determination as to the likelihood of coverage can be made at this time. Notwithstanding the foregoing, a list of Con Edison's insurance policies potentially relevant to claims regarding environmental liabilities associated with Newtown Creek is produced at EPA-NC-CE-0004650- EPA-NC-CE-0004663.

35.b. Con Edison is aware of no potential environmental liability in connection with Newtown Creek that may give rise to a duty to indemnify the Con Edison.

35.c. Con Edison is aware of no potential environmental liability in connection with Newtown Creek for which Con Edison may have a duty to indemnify.